STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE

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TO: **County Auditors, City/Towns and Townships**

FROM: **Department of Local Government Finance**

SUBJECT: **Fire Protection Territories**

DATE: **June 2004**

General

Pursuant to Ind. Code § 36-8-19 a Fire Territory may be established by the legislative bodies, as defined in Ind. Code § 36-1-2-9, of two (2) or more contiguous units which, **after** January 1 but **before** April 1, must pass identical ordinances establishing a Fire Protection Territory ("territory"). The ordinances take effect July 1 of the year the ordinance is signed and must contain the following:

(a) Boundaries of the Territory and Certification to County Auditor

The boundaries of the territory do not need to coincide with political subdivision boundaries, but must not split individual parcels. The participating units of the territory **shall** provide the County Auditor a map outlining the boundaries of the Territory and a listing of included real estate parcel numbers in order to provide necessary information for tax billing purposes. *The County Auditor shall insure that the Territory rate(s), as approved by the County Board of Tax Adjustment, are advertised in accordance with Ind. Code § 6-1.1-17-12 (commonly referred to as TAB rates), for each participating unit.*

(b) Identification of the *Provider Unit* and all other participating units.

Upon agreement of the legislative bodies of the participating units, one (1) unit will be designated as the *Provider Unit*. The *Provider Unit* refers to the participating unit that is responsible for providing the fire protection to the unit. The *Provider Unit* will prepare the annual budget, with the assistance of the participating units, for the territory. The territory budget becomes a separate **fund** of the *Provider Unit* and will be advertised with their annual budget, however, the rate will be based upon the assessed value of the territory as certified by the County Auditor.

(c) An agreement to impose a uniform tax rate upon all the taxable property with the territory.

(d) An agreement to establish the territory.

This agreement should precisely state all conditions, such as use of buildings and equipment owned by each participating unit prior to the establishment of the territory, and any other contingencies which may affect the operation and purpose of the territory.

Budget

For the territory to levy a property tax for its operations for the budget year following its creation, the provisions of IC 6-1.1-18.5-7 states that a taxing unit may not impose a property tax levy for a year if the unit did not exist as of March 1 of the preceding year.

As earlier stated, the *Provider Unit* shall establish a Fire Protection Territory Fund from which all expenses of operating and maintaining the fire protection services are expended. The fund may not be used for any other purpose. The *Provider Unit* may not transfer money out of the fund at *any time.* The *Provider Unit* shall receipt all taxes imposed and all fees received for fire protection to the fund.

The *Provider Unit*, with the assistance of each participating unit, shall prepare an annual budget to meet the expenses of operation and maintenance for fire protections services within the territory, plus an operating balance (line 11 of Budget Form 4B) not to exceed twenty percent (20%) of the budgeted expenses (Line 1 of Budget Form 4B). The tax levy (Line 16 of Budget Form 4B) required to fund the estimated budget is not subject to the maximum levy limitations as imposed by Ind. Code § 6-1.1-18.5. The *Provider Unit* shall advertise, have a public hearing and adopt the annual budget in the same manner and time as its' usual budget.

The amounts budgeted for the territory is considered a part of each participating unit's budget. Each participating unit's tax levy, used for fire protection, will be reduced in an amount equal to the amount levied for fire protection services in the year *immediately preceding* the year in which the unit becomes a participating unit of the territory. This section means that the first year in which the territory will levy taxes for fire protection, each participating unit's maximum levy, used for fire protection, will be reduced in an amount equal to the taxes levied for that area now within the fire territory.

With respect to the annual budget, if the amount levied for a particular year is insufficient to cover the expenses of the territory, the Provider Unit **may** transfer from available sources (i.e. money from the civil unit's funds) money needed to cover those costs. Those funds may be recovered by the Provider Unit by increasing the levy of the territory in the following year and reimbursing the fund(s) from which transferred. (As noted above, the Provider Unit is prohibited from transferring any funds from the territory's budget to the unit's civil budget.)

If the amount levied in a particular year *exceeds* the amount necessary to cover costs incurred for fire protection services within the territory, the levy in the following year will be reduced by the amount that is not transferred to the Equipment Replacement Fund.

The Department of Local Government Finance shall insure that all revenues derived from the levying of property taxes are applied to the annual budget of the Territory, to include CAGIT, COIT, Property Tax Replacement Credit, Vehicle Excise Tax and Financial Institutions Tax. The amounts to be applied shall be based upon the percentage that the abstract tax levy of the Territory bears to the total abstract tax levy of the *Provider Unit*.

Equipment Replacement Fund

Participating units may agree to establish an Equipment Replacement Fund which is to be used to purchase fire equipment that will be used to serve the entire territory. To establish the fund, the *legislative bodies* of all participating units must adopt identical ordinances **after** January 1 but **before** April 1 authorizing the Provider Unit to establish the fund. The ordinance must include at least the following:

(a) The name of each participating unit and the Provider Unit.
(b) An agreement to impose a uniform tax rate upon all the taxable property within the territory for the Equipment Replacement Fund.
(c) The contents of the agreement to establish the fund.

The ordinance to establish the fund takes effect July 1 of the year the ordinance is adopted. *A copy of the ordinance authorizing the rate must accompany the annual budget for the next ensuing year.* The Provider Unit may use money in the fund only for those purposes set forth in the agreement. If the use of the fund changes over a period of time, the current agreement must be rescinded by the participating legislative bodies of the territory and a new ordinance adopted.

Under (c) above, the units may agree on the use of the funds collected as follows:

(1) The accumulation of money for the purchase of fire protection equipment
(2) Payment of debt service for the purchase of fire protection equipment
(3) Transfer from the Fire Protection Territory Fund to supplement the Equipment Replacement Fund in an amount not to exceed five percent (5%) of the *levy* for that year.

The maximum rate which may imposed for the Equipment Replacement Fund is three and thirty-three hundredths cents ($.0333).

A Fire Territory may not establish a Cumulative Firefighting Building and Equipment Fund, under the provision of IC 36-8-14.

The transfer of township fire funds, equipment and buildings to the territory by the participating units is not provided for under IC 36-8-19.

Debt Service

Before any debt may be incurred, the *fiscal bodies*, as defined in Ind. Code § 36-1-2-6, must adopt identical ordinances specifying the amount, purpose and term of the debt. The Department of Local Government Finance must approve the levying of additional property taxes to provide for repayment of a debt under the provisions of Ind. Code § 6-1.1-18.5-8.

Should the territory find it necessary to incur debt, the territory may purchase the firefighting equipment and apparatus on an installment conditional sale or mortgage contract running for a period <u>not to exceed</u>:

(1) Six (6) years; or

(2) Fifteen (15) years if the territory

  (a) has a total assessed value of sixty million dollars ($60,000,000) or less; **and**

  (b) is purchasing the firefighting equipment with funding from the state or its instrumentalities, or the federal government or its instrumentalities.

(Section (b) refers to those units which have applied and have been approved for grants from the state or federal government such as Build Indiana Fund, State Fire Marshall's grant, etc.)

The installments shall be amortized in equal or approximately equal installments payable on January 1 and July 1 of each year.

If a unit incurred indebtedness for fire protection services prior to becoming a participating unit, the unit shall continue to repay that indebtedness by the levying of taxes within the boundaries of the unit until the obligation is paid in full.

A unit that agreed to the borrowing of money to purchase fire protection equipment while a participating unit, shall continue to repay the unit's share of that indebtedness by imposing a property tax within the boundaries of that unit until the obligation is paid in full.

Preexisting Indebtedness

Ind. Code § 36-8-19-9 states that a unit that incurred debt for fire protection services *before* becoming a participating unit of a Territory shall continue to repay that indebtedness by levying sufficient sums *only within the boundaries of the taxing unit* until the indebtedness is paid in full.

A unit that agreed to the borrowing of money to purchase fire protection equipment *while* a participating unit of a Territory shall continue to repay the unit's share of that indebtedness by imposing a property tax levy within the boundaries of the unit included in the Territory until the indebtedness is paid in full.

Annexation by a Municipality within the Boundaries of the Territory

Any area that is part of a territory and is annexed by a municipality (city or town) that is not a part of the territory ceases to be a part of the territory when the municipality begins to provide fire protection services to the annexed area. Ind. Code § 36-4-3-10 provides that a municipality which annexes territory of a township which is indebted or has outstanding unpaid bonds or other obligations at the time of the annexation, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed area bears to the assessed value of the territory in that particular township.

Withdrawal from Territory

If a unit selects to withdraw from a territory, the unit must *after* January 1 but *before* April 1, adopt an ordinance providing for the withdrawal. The ordinance will take effect July 1 of the year the ordinance is adopted.

If an ordinance is timely adopted, the unit's maximum property tax levy for fire protection will be initially increased by the amount of the unit's share of the property tax levy for the territory while a participating unit. Additional increases to the fire protection levy will be subject to the normal levy increases under Ind. Code § 6-1.1-18.5, except for that amount required to retire any debt while a participating unit.